

REMARKS

I. INTRODUCTION

Receipt of the Office Action of May 18, 2004 is acknowledged. Indication that claim 1 is in condition for allowance is appreciated. Applicants understand that claims directed to compositions, methods of use and a process of making, which are of the same scope as claim 1, would also be in condition for allowance.

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 14-30 are requested to be cancelled.

Claims 3, 4, 5 and 31 are currently being amended.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier. Claims 3, 4 and 5 have been amended to be dependent only from claim 1, and claim 31 has been amended to recite that the H₃ receptor ligand or a pharmaceutically acceptable salt thereof is according to claim 1.

Based on the amendments to the claims which reflect that the claims are of the same scope as claim 1, which the Examiner indicated is allowable, the current application is in condition for allowance.

After amending the claims as set forth above, claims 1, 3-5, 8, 13 and 31-35 are now pending in this application.

II. THE OFFICE ACTION

The Examiner indicated that claim 1 is allowed and withdrew all other pending claims in the application (i.e., claims 3-5, 8 and 14-35) since the claims are not the same scope as allowed claim 1.

The Examiner's attention is directed to claim 8 and 13 which are dependent upon claim 1. It appears that these claims, while not the same scope as claim 1, but of a more narrow scope since they depend from claim 1, would also be in condition for allowance and therefore, should not be held withdrawn. Claims 3-5 and 31 have been amended to depend from claim 1. As such, claims 3-5, 8, 13 and 31-35 should now be in condition for allowance and should not be held withdrawn. An early notice to that effect is earnestly solicited.

III. CONCLUSION

The present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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